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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,206	09/22/2006	Fernando Alberto Grazziotin	GRAZ0101PUSA	5813
22045	7590	06/23/2010	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075			HELVEY, PETER N.	
			ART UNIT	PAPER NUMBER
			3782	
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			06/23/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/599,206	GRAZZIOTIN, FERNANDO ALBERTO	
	Examiner	Art Unit	
	PETER HELVEY	3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-23 is/are pending in the application.
- 4a) Of the above claim(s) 22 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-20 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 20, 2009 has been entered.

Election/Restrictions

2. Newly submitted claims 22 and 23 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Inventions 1 and 2 are related as product made and process of making, respectively.

The inventions are distinct if the process of making and the product are distinct, which must be shown by either or both of the following: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)).

In the instant case the product as claimed can be made by a different process such as manually nesting the bags by hand without a base.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for

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prosecution on the merits. Accordingly, claims 22 and 23 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grazziotin (US 7,080,751) in view of Nestler (US 3,512,338).

In re Claim 12, Grazziotin teaches a bag (7) designed to be used in places that accumulate grit and dirt (Column 2, Lines 14-27) the bag comprising a seam (8) extending transversely across a lower end of the bag, the seam forming at least one projection extending outwardly from the lower end of the bag (Figure 4).

Grazziotin does not teach a bag assembly comprising orthogonally nested bags. Nestler teaches a set of nested bags, in which the mandrel is rotated slightly to offset the seams of adjacent bags. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to create a set of nested bags, as taught by Nestler with the bags of Grazziotin. Further, since Nestler discloses that it is known to rotate a mandrel, so that the seams of adjacent bags are offset, it would be within the level of ordinary skill in the art to offset the seams of the bags of Grazziotin 90 degrees

when creating the nested bag assembly. Such a modification would have involved the use of a known technique of creating a nested bag assembly, and finding the optimal angle at which to offset the seams of adjacent bags.

In re Claim 13, the combination further teaches a multilayered sidewall is formed by the nesting of the bags. The additional limitations provide no additional structural limitations to the bag assembly. Further, the bag assembly of the combination is capable of being positioned within a container such that the sidewall extends out of and folds over a circumferential edge of the container for supporting the bag assembly.

In re Claim 14, the combination further teaches at least one bushing (Grazziotin, 24) that projects through the multilayered sidewall, forming at least one lateral opening for facilitating fluid communication through the bushing (Grazziotin, Figures 1-3).

In re Claim 15, the combination further teaches the bushing comprises an external fitting (Grazziotin, Fig. 2; 24 from left side line of 45 towards outside of container) for outwardly projecting through the external bag, capable of extending through a container to connect to an external tube, and an internal fitting (Fig. 2; 24 from left side line of 45 towards inside of container) for projecting inwardly through the at least two internal bags and capable of being connect to an internal tube.

In re Claim 16, 17, and 20, the combination further teaches the bushing is received by an inlet of the container for forming a seal, the bushing is configured for allowing an innermost internal bag and any collected grit and dirt therein to be selectively removed from the bag assembly without removing the bushing or disrupting the seal (Fig. 2; layered bag structure taught by the combination clearly allows

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innermost bag to be removed from the bushing without disrupting the seal as the next inner bag's seal will be maintained by compressive force 93).

In re Claim 18, the combination further teaches the at least one bushing further comprises an external region (Fig. 2; 24 from left side line of 45 towards inside of container) for fitting in the respective lateral opening of the internal bags and promoting sealing between the internal bags to limit the flow of liquid from an innermost bag to any of the subsequent internal bags, the external region having a lip (2) extending radially for retaining the internal bags to the bushing.

In re Claim 19, the combination further teaches the at least one bushing further comprises an internal region (Fig. 2; 24 from left side line of 45 towards outside of container) for projecting outwardly through the external bag and displacing a portion of the external bag about an outer diameter of the internal region. Where applicant has failed to positively claim the container and the inlet pipe of the container, the limitation "wherein the portion of the external bag is compressed between the bushing and an inlet pipe of the container" is interpreted as a functional intended use. This interpretation of the claim language combined with *Grazziotin's* teaching of the claimed alternative (Figs. 14, 15) leads the examiner to the position that *Grazziotin* teaches a device capable of the claimed functional intended use.

Response to Amendment

5. The amendment filed October 20, 2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added

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material which is not supported by the original disclosure is as follows: the amendment to paragraph [0013] contains more than a literal translation correcting grammatical issues and introduces new matter such as the example thickness and the modifications to air forces.

Applicant is required to cancel the new matter in the reply to this Office Action.

Allowable Subject Matter

6. Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claims 12-15 have been considered but are moot in view of the new ground(s) of rejection based on the new interpretation of the *Grazziotin* "bushing".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER HELVEY whose telephone number is (571)270-1423. The examiner can normally be reached on M-Th 8:00 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. H./

Examiner, Art Unit 3782

June 18, 2010

/Nathan J. Newhouse/

Supervisory Patent Examiner, Art Unit 3782